

MAY 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

FERNANDO BOCANEGRA MORENO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-72321

Agency No. A76-844-432

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Fernando Bocanegra Moreno, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) affirming an

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's ("IJ") order denying his application for cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review for substantial evidence, *see Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the BIA's conclusion that Moreno was statutorily ineligible for cancellation of removal because Moreno failed to demonstrate he had accrued ten years of continuous physical presence in the United States prior to April 2, 1998. *See* 8 U.S.C. § 1229b(b)(1)(A).

We do not address Moreno's contention that he was "denied a full and fair hearing on the merits of [his] hardship claims" because Moreno's failure to establish ten years of continuous physical presence is dispositive of his eligibility for relief. *See id.* (to be eligible for cancellation of removal, the applicant must establish continuous physical presence, good moral character and hardship).

PETITION FOR REVIEW DENIED.